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degree, and brings error. Judgment reversed, verdict set aside, and case remanded.

W. M. Murrell and *Duncan Drysdale*, both of Lynchburg, for plaintiff in error.

Jno. R. Saunders, Atty. Gen., and *A. H. Light*, of Rustburg, for the Commonwealth.

HUGO et al. v. CLARK.

June 12, 1919.

[99 S. E. 521.]

Witnesses (§ 199 (4)*)—Privileged Communications—Attorney and Client—Death of Client.—To show revocation of a will, in a contest between heirs of deceased, claiming he died intestate, and one claiming under that will, one who as attorney drew a later will may testify, not only as to its execution, but as to its contents, as expressly revoking the first, especially where he was a subscribing witness thereto, as against objections of confidential communications; the rule of privilege not obtaining in such circumstances.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 144.]

Appeal from Circuit Court of City of Norfolk.

The will of Cyrus Warden, deceased, in favor of Eva Catherine Clark, was contested by Randolph B. Hugo and others. From an adverse judgment, they appeal. Reversed and remanded.

J. G. Martin, *Harry E. McCoy*, and *W. S. Morris, Jr.*, all of Norfolk, for appellants.

Thomas H. Willcox and *A. Johnston Ackiss*, both of Norfolk, for appellee.

SMALL v. VIRGINIA RY. & POWER CO.

June 12, 1919.

[99 S. E. 525.]

1. Street Railroads (§§ 98 (5), 102 (2)*)—Injuries on Track—Contributory Negligence and Proximate Cause—Questions for Jury.—In an action for injuries to a bicycle rider who fell into an excavation between street railway tracks and was struck by a street car while attempting to arise, questions whether he was guilty of negligence,

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.